



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

OCT 24 2001

TECH CENTER 1600/2900

In re the application of:

MERRIL et al.

Serial Number: 08/879,139

Group Art Unit: 1643

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

Filed: June 19, 1997

Examiner: D. Wortman

For: ANTIBACTERIAL THERAPY WITH BACTERIOPHAGE GENOTYPICALLY
MODIFIED TO DELAY INACTIVATION BY THE HOST DEFENSE SYSTEM

DECLARATION

Assistant Commissioner for Patents
Washington, D.C. 20231

June 21, 1999

Sir:

I, Monica Chin Kitts, a citizen of the United States, hereby declare and state:

1. I am an associate attorney at the firm of Nikaido, Marmelstein, Murray & Oram LLP (referred to herein as the firm).
2. I am the principal attorney responsible for the prosecution of the present application. My duties in connection with being responsible for the prosecution of the present application include following the docketing and USPTO filing procedures for the firm. I enter in my personal docket book any due date(s) created by any mail received from the USPTO in connection with each application for which I am responsible.
3. Upon examining my personal docket book after receiving the facsimile transmission of June 15, 1999 from Donna C. Wortman, Ph.D. in reference to the above

application, I noted that my personal docket book contains no notation of any due date for a response to an Office Action in the above application on January 2, 1999 (i.e., three months from the alleged date of mailing of the Office Action of October 2, 1998 in the above application). Attached (Attachment 1) is a true and correct copy of my personal docket book covering January 2, 1999.

4. I have been instructed on the importance of ensuring that my personal docket book reflects every due date established by mail received from the USPTO concerning any application being handled by me.

5. I am not aware of any occurrence where an Office Action (in an application where the applicant has not instructed us to abandon the application) was mailed to the firm and was not docketed in the master docket, in my personal docket book and in the docket book of my secretary, Ms. Lorraine C. Barlow.

6. Based on the above, it is my belief that the October 2, 1998 Office Action concerning the above application was never received by the firm.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false

statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE ON ORIGINAL

Monica Chin Kitts

Date

Registration No. 36,105

Enclosure:

ATTACHMENT 1

Important Matters This Week

THURSDAY 31
365/0

1/29 New Year's Day

FRIDAY 1
1/364

564-4217 Feb. 564-11/11
1614-7004 E-1 1/1

2 SATURDAY
2/363

New Year's Bank Holiday (Scotland)

L-1614-5018 issue See 564

L-564-9003 Feb. 564-11/11

L-1614-7033 E-3 1/1

2241-9003 Final E-3 allowed

SUNDAY 3
3/362

L-1614-7035 RR 1/1

AT-A-GLANCE

BEST AVAILABLE COPY

FEB

MAR

APR

MAY

JUN

JUL

AUG

SEP

JAN



Why Insure Anywhere Else...SM

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December 1998						
S	M	T	W	T	F	S
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6	7	8	9	10	11	12
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27	28	29	30	31		

January 1999						
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	31					

February 1999						
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March 1999						
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	28	29	30	31		

4 MONDAY

4/361

SAF 50000 Dr. Orlando - Ryan

5 TUESDAY

5/360

1:30 Dr. Orlando - Ryan

6 WEDNESDAY

6/359

164-6056 AA ext 511 12/11

0-2241-7003 issue see pmt 11/6

0-1552 0-1614-6091 brief due 11/15

2:00 call 564-5012 ✓
examiner

REST AVAILABLE COPY